

# PLANNING COMMISSION MINUTES

November 20, 2002

## CALL TO ORDER:

Chairman Vlad Voytilla called the meeting to order at 6:30 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

## ROLL CALL:

Present were Chairman Vlad Voytilla, Planning Commissioners Bob Barnard, Gary Bliss, Eric Johansen, Dan Maks, Shannon Pogue, and Scott Winter.

Development Services Manager Steven Sparks, AICP, Senior Planner Kevin Snyder, Senior Transportation Planner Don Gustafson, Project Engineer Jabra Khasho, Senior Transportation Planner Margaret Middleton, City Transportation Engineer, Randy Wooley, Assistant City Attorney Ted Naemura, and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Voytilla, who presented the format for the meeting. Observing that the first item on the agenda involves a Work Session regarding Development Code Transportation Performance Measures, he explained that this Work Session would be temporarily interrupted for the Public Hearing, which is scheduled at 7:00 p.m.

## STAFF COMMUNICATION:

### WORK SESSION: DEVELOPMENT CODE TRANSPORTATION PERFORMANCE MEASURES

Explaining that the update to the Transportation Plan is continuing in the process towards adoption, Senior Transportation Planner Margaret Middleton noted that the application for the Comprehensive Plan Amendment has been submitted. She explained that a Public Hearing has been tentatively scheduled for the adoption of the update to the Transportation System Plan and the new Transportation Element on January 15, 2003. Referring to last year's Planning Commission work sessions on the draft Transportation System Plan, she pointed out that

1 the Commission had asked staff to review the Traffic Impact Analysis  
2 procedures and level of service standards to determine a method of  
3 obtaining more accurate and comprehensive information so that the  
4 Commission can make appropriate decisions about new development.  
5 Observing that she has been working on this project with City  
6 Transportation Engineer Randy Wooley, Project Engineer Jabra  
7 Khasho, and Senior Transportation Planner Don Gustafson, she noted  
8 that they prepared a performance standards proposal that was mailed  
9 to the Planning Commissioners approximately one month ago. She  
10 explained that *DKS Associates* reviewed the draft performance  
11 standards. Since DKS prepares traffic analyses for development  
12 applicants, their review of the proposal was very valuable. DKS  
13 expressed the opinion that they felt the proposal was fair for both the  
14 City of Beaverton and developers. She also mentioned that she and  
15 Mr. Wooley met with the Development Liaison Committee (DLC) the  
16 previous day to provide an update on the Transportation System Plan  
17 Update. The DLC also reviewed the proposed performance standards.  
18 She pointed out that it was the DLC's opinion that the City of  
19 Beaverton should not adopt a standard exceeding the Level of Service  
20 standard established by Metro. She distributed copies of Exhibits 18-  
21 2, 17-2, and 17-2.

22  
23 Referring to proposed performance standards, Project Engineer Jabra  
24 Khasho noted that the previous standards had not clearly or  
25 consistently defined what quantitative measures would determine each  
26 level of service. Observing that level of service (LOS) is based upon the  
27 delay experienced at a signalized intersection, he noted that staff had  
28 attempted to provide some common denominator for all of these  
29 intersections. He explained that based upon the values for signalized  
30 intersections, the wait experienced with LOS "E" ranges from 55 to 80  
31 seconds, emphasizing that after 81 seconds, the LOS changes to LOS  
32 "F". Noting that the delay is up to 180 seconds at some intersections,  
33 he pointed out that a delay of 120 seconds is unacceptable.

34  
35 Ms. Middleton offered to respond to questions about the proposed  
36 performance standards.

37  
38 Commissioner Maks questioned whether this proposal involves a one-  
39 hour peak period of time.

40  
41 Mr. Khasho advised Commissioner Maks that the peak hour factor is  
42 based upon 15-minute increments of time and multiplied by four.

43

1 Commissioner Maks observed that the bottom line is that nothing has  
2 changed, adding that the Traffic Analysis will provide information on  
3 the LOS during the worst 15 minutes within that hour. He pointed out  
4 that he does not agree with DLC's opinion that they do not want the  
5 City of Beaverton to adopt standards that are tougher than those  
6 established by Metro, emphasizing that he does not agree.

7  
8 Ms. Middleton stated that DKS discovered through the 2020 analysis  
9 for the Transportation Plan update that the first and second peak  
10 hours do not vary more than 3% . and that 3% is typically considered  
11 the margin of error for analytical purposes.

12  
13 Commissioner Maks referred to the peak hour volume-to-capacity ratio  
14 (v/c) of each lane group, and requested a definition of the phrase "lane  
15 group."

16  
17 Mr. Khasho explained that a lane group could be the eastbound  
18 through lane, a left turn lane, or that each lane could be considered a  
19 lane group as well.

20  
21 Commissioner Maks questioned whether the v/c applies to both left-  
22 turn and right- turn lanes.

23  
24 Mr. Khasho advised Commissioner Maks that this v/c could potentially  
25 apply to both left-turn and right- turn lanes, either as a group or as  
26 each lane, emphasizing that each delay is actually an average for a  
27 total intersection.

28  
29 Commissioner Maks expressed his opinion that the two-way stop  
30 controlled intersection standard sounds awfully tough, and questioned  
31 whether the current standards are less stringent.

32  
33 Ms. Middleton stated that there is no standard at this time for  
34 performance of a two-way or all-way stop controlled intersection.

35  
36 Commissioner Maks and Chairman Voytilla expressed their opinion  
37 that these are tough standards for a developer to meet.

38  
39 Referring to the handout, Ms. Middleton pointed out that this standard  
40 is within the parameters of level-of-service E, the current standard for  
41 signalized intersections

42 Commissioner Maks questioned whether City of Beaverton standards  
43 apply to a development within the City limits involving an intersection  
44 located within the jurisdiction of Washington County.

1 Ms. Middleton pointed out that this situation requires the involvement  
2 of Washington County.

3  
4 Commissioner Johansen questioned whether Metro would accept a  
5 standard other than a two-hour measure of time.

6  
7 Ms. Middleton confirmed that it is her understanding that Metro  
8 would accept a standard other than a two-hour measure of time,  
9 adding that the City of Beaverton is in compliance with the Regional  
10 Transportation Plan according to the draft Compliance Report she  
11 worked on with Metro staff.

12  
13 Observing that it is 7:00 p.m., Chairman Voytilla stated that it is time  
14 to revert to old business, pointing out that no public testimony would  
15 be accepted this evening with regard to RZ 2002-0021 – Progress  
16 Rezone at SW Hall Boulevard Zone Change from R-2 to Community  
17 Service (CS), which has been continued to December 4, 2002.

18  
19 Chairman Voytilla noted that the Public Hearing with regard to TA  
20 2002-0001 – Chapter 60 (Special Requirements), Chapter 20 (Land  
21 Uses), Chapter 40 (Permits and Applications), and Chapter 90  
22 (Definitions) Text Amendments concerning Wireless Communications  
23 Facilities would occur, as scheduled, and questioned Ms. Middleton  
24 with regard to how much more time would be required to complete the  
25 Work Session.

26  
27 Ms. Middleton advised Chairman Voytilla that depending upon the  
28 Planning Commissioners questions, it should be possible to complete  
29 the Work Session within 15 minutes

30  
31 Observing that members of the audience are in attendance for the  
32 proposed Text Amendments for Wireless Communications Facilities,  
33 Chairman Voytilla suggested that the Work Session continue following  
34 that Public Hearing. Following a brief discussion, it was determined  
35 that the Work Session would continue for an additional 30 minutes,  
36 followed by the scheduled Public Hearing at 7:30 p.m.

37  
38 Referring to page 2 of the Staff Report, Ms. Middleton noted that staff  
39 is proposing an additional Traffic Impact Analysis report requirement  
40 to identify and mitigate forecast year impacts of the proposed  
41 development. This should provide the Planning Commission with a  
42 complete analysis and adequate information on which to base their  
43 decisions.

44

1 Referring to the issue of fairness, Commissioner Maks questioned how  
2 staff would address proportionality with long-range plans, such as  
3 Cornell Road changing to five lanes, emphasizing that some of these  
4 plans have not yet been funded.  
5

6 Ms. Middleton stated that staff hopes to be able to provide adequate  
7 long-range forecasting information in order to allow the Planning  
8 Commission to make decisions that are fair and reasonable..  
9

10 Commissioner Maks pointed out that while proportionality is a great  
11 concept, he is concerned with the actual implementation. He noted  
12 that great staff analysis would be necessary, adding that the  
13 development analysis is going to depend upon both proportionality and  
14 necessity.  
15

16 Referring to page 3 of the Staff Report, Ms. Middleton discussed  
17 Guidance versus Development Code Requirements. She explained the  
18 advantages and disadvantages of each.  
19

20 Commissioner Maks discussed a checklist, emphasizing that denial can  
21 only be based upon what is in the Development Code rather than on a  
22 checklist. He emphasized that if the Traffic Analysis is inadequate,  
23 the burden of proof must be on the applicant, adding that this should  
24 be clearly indicated within the Development Code.  
25

26 Development Services Manager Steven Sparks pointed out that he is  
27 curious to understand how that would have anything to do with not  
28 providing adequate evidence to approval criteria, adding that if the  
29 approval criteria of various applications were modified, this could then  
30 relate back to a subject like this. He reminded the Planning  
31 Commission that the Development Code is to specifically identify  
32 development requirements of any specific development.  
33

34 Commissioner Barnard suggested that most applicants would request  
35 information with regard to which format their information should be  
36 presented in, adding that a checklist would definitely provide some  
37 guidance.  
38

39 Commissioner Bliss pointed out that completeness and content  
40 provides the main basis for a decision, adding that he doubts that all of  
41 the various entities involved would select an identical format.  
42

43 Commissioner Barnard expressed his opinion that as a volunteer, his  
44 time is more important than that of the business or applicant,

1 emphasizing that the application process has become more  
2 streamlined.

3  
4 City Transportation Engineer Randy Wooley stated that he shares the  
5 concern that this code revision imposes more burden on staff to  
6 perform more detailed engineering analysis. He stated that staff have  
7 already discussed how this would be accommodated. Referring to  
8 Commissioner Maks' question about the two-way stop, he pointed out  
9 that this all fits into a slightly broader context, adding that this is only  
10 one piece of the Development Code.

11  
12 Ms. Middleton requested direction from the Planning Commission on  
13 proceeding with the three staff proposals: the proposed intersection  
14 performance standards, the forecast-year traffic analysis requirement,  
15 and developing traffic impact report guidance for applicants..

16  
17 All members of the Planning Commission expressed their approval of  
18 proceeding with the three proposals with the caveat that traffic impact  
19 requirements and standards remain in the Development Code.

20  
21 Commissioner Maks asked if the capacity diagram in the  
22 Transportation System Plan Update report was ever corrected. Ms.  
23 Middleton advised Commissioner Maks that while she does not recall  
24 the specific errors, *DKS Associates* made all corrections to date in the  
25 final draft dated September 2001. She explained that the Public  
26 Hearing scheduled for January 15, 2003, would be for the purpose of  
27 reviewing CPA 2002-0014, which is a Comprehensive Plan  
28 Amendment requesting adoption of an updated Comprehensive Plan  
29 Transportation Element and of the draft Transportation System Plan  
30 Update dated September 2001 with all changes made to date. She  
31 noted that the staff report will be provided to the Commissioners a full  
32 30 days prior to the Public Hearing.

33  
34 7:34 p.m. – Ms. Middleton, Mr. Wooley, Mr. Khasho, and Mr.  
35 Gustafson left.

36  
37 7:35 p.m. to 7:40 p.m. – recess.

38  
39 **VISITORS:**

40  
41 **JUNE FERAR**, who had submitted a testimony card to discuss  
42 Laurelwood, was no longer in the audience.  
43

1        **HENRY KANE**, who had submitted a testimony card to discuss the  
2        SW 114<sup>th</sup> Avenue Redevelopment Project, was no longer in the  
3        audience.

4  
5        **STAFF COMMUNICATION:**

6  
7        Staff indicated that there were no communications.

8  
9        **OLD BUSINESS:**

10  
11        Chairman Voytilla opened the Public Hearing and read the format for  
12        Public Hearings. There were no disqualifications of the Planning  
13        Commission members. No one in the audience challenged the right of  
14        any Commissioner to hear any of the agenda items, to participate in  
15        the hearing or requested that the hearing be postponed to a later date.  
16        He asked if there were any ex parte contact, conflict of interest or  
17        disqualifications in any of the hearings on the agenda. There was no  
18        response.

19  
20        **CONTINUANCES:**

21  
22        A.    **RZ 2002-0021 – PROGRESS REZONE AT SW HALL**  
23        **BOULEVARD: ZONE CHANGE – R-2 TO CS**

24        The applicant requests approval of a Zone Change from Urban  
25        Medium Density (R-2) to Community Service (CS). The property  
26        is generally located on the north side of SW Hall Boulevard and  
27        east of SW Scholls Ferry Road, can be specifically identified as  
28        Tax Lot 800 on Washington County Assessor's map 1S1-26BC,  
29        and is approximately 0.24 acres in size.

30  
31        Commissioner Barnard **MOVED** and Commissioner Johansen  
32        **SECONDED** a motion to approve the applicant's request to  
33        continue RZ 2002-0021 – Progress Rezone at SW Hall  
34        Boulevard: Zone Change – R-2 to CS to a date certain of  
35        December 4, 2002.

36  
37        Motion **CARRIED**, unanimously.

38  
39        B.    **TA 2002-0001 – CHAPTER 60 (Special Requirements),**  
40        **CHAPTER 20 (Land Uses), CHAPTER 30 (Permits and**  
41        **Applications), AND CHAPTER 90 (Definitions) TEXT**  
42        **AMENDMENTS**

43        This is a request for Planning Commission approval of a City-  
44        initiated series of amendments to sections of the Development

1 Code for the implementation of regulations and standards for  
2 wireless communications facilities. Wireless communication  
3 facilities include, but are not limited to, cellular phone towers,  
4 antenna panels and arrays, and satellite dishes. The  
5 amendments to Chapter 60 will create a new section, and will  
6 modify the special use regulations for height exemptions. The  
7 new section in Chapter 60 will establish applicability standards,  
8 exemptions, development standards including but not limited to  
9 standards for height, setbacks, and design, special study  
10 requirements, temporary use standards, collocation standards  
11 and standards for abandoned facilities. Text amendments to  
12 Chapter 20 (Land Uses), Chapter 40 (Applications), and Chapter  
13 90 (Definitions) are also proposed to support the implementation  
14 of the proposed regulations and standards for wireless  
15 communications facilities. Amendments to Chapter 20 (Land  
16 Uses) are necessary to address the permitted, conditional and  
17 prohibited use status of wireless communication facilities in  
18 established zoning districts. Amendments to Chapter 40  
19 (Applications) are necessary to identify the applicable permit  
20 applications for the different types of wireless communication  
21 facilities specified in the new section of Chapter 60.  
22 Amendments to Chapter 90 (Definition) are necessary to define  
23 key terms specific to wireless communication facilities identified  
24 in the new section of Chapter 60.

25  
26 Chairman Voytilla explained that public testimony has been completed  
27 and would no longer be accepted.

28  
29 Senior Planner Kevin Snyder pointed out that the Commission had  
30 addressed up to Policy Issue No. 6 at the Public Hearing of November  
31 13, 2002. He identified that tonight's discussion should begin with  
32 Policy Issue No. 7. Referring to several issues that had been raised at  
33 last week's session, he provided copies of an Addendum to the Policy  
34 Issues Primer, dated November 20, 2002, containing appropriate  
35 information, adding that he would like to also clarify some direction  
36 prior to continuing on with Policy Issue Nos. 7 through 12.

37  
38 Mr. Snyder discussed information staff had obtained at the request of  
39 Commissioner Bliss with regard to proposed height restrictions and  
40 antennas attached to structures. He pointed out that Portland  
41 General Electric (PGE) does establish areas on their poles specifically  
42 for the attachment of communications equipment, emphasizing that  
43 they do not normally allow this to occur on top of their poles. He  
44 mentioned that PGE also requires a 40-inch separation between the



1 supply space, noting that this is the area that is occupied by the  
2 electrical conductors and other hardware and the communication  
3 space. Observing that he had attempted to contact the Bonneville  
4 Power Administration (BPA), he mentioned that he had not received  
5 any return telephone calls prior to this meeting.

6  
7 On question, Mr. Snyder informed Commissioner Maks that stealth  
8 requirements would still be applicable, adding that he had attached  
9 several photographs illustrating various wireless communications  
10 configurations.

11  
12 Chairman Voytilla emphasized that the applicant, rather than staff or  
13 the Planning Commission, should be responsible for finding solutions  
14 to any issues with regard to the requirements.

15  
16 Mr. Snyder referred to the clustering of towers or "Cell Tower Farms",  
17 noting that these facilities still need to comply with applicable  
18 standards as proposed within the Text Amendments, and discussed the  
19 benefits and disadvantages of this option.

20  
21 Commissioner Barnard suggested that a restriction allowing a  
22 maximum of five towers on a single site would require defining the size  
23 as well as other characteristics and requirements involved in a single  
24 site.

25  
26 Mr. Snyder observed that different jurisdictions have addressed  
27 Commissioner Barnard's issue differently. He identified that multiple  
28 parcels could be involved in a single application and site, Mr. Snyder  
29 emphasized that several alternatives and options are available.

30  
31 Chairman Voytilla discussed concerns with imposing a variance  
32 process upon an applicant when proposing to site multiple towers on a  
33 site.

34  
35 Mr. Sparks suggested that staff may have overcompensated from the  
36 previous meeting based upon the direction of the Planning  
37 Commission, noting that while there had been an objection to locating  
38 multiple cellular towers within residential areas, other options might  
39 be available.

40  
41 Commissioner Barnard reiterated his concern with the lack of a  
42 definition of a site.

43

1 Mr. Snyder pointed out that the Development Code does provide a  
2 definition of a site, as follows: *That parcel of real property in common*  
3 *ownership, not withstanding that the particular application may be for*  
4 *development of a portion of the site only. Conveyance of less than fee*  
5 *title of different persons, such as by ground lease, shall not operate to*  
6 *prevent the requiring Master Site Plan Review and action by the Board*  
7 *of Design Review on the complete parcel.*

8  
9 Commissioner Winter stated that while he is neither in favor of nor  
10 against this proposal at this time, he has concerns with the  
11 terminology, emphasizing that there are very few locations within the  
12 City of Beaverton where clustering could potentially be achieved.

13  
14 Referring to the advantages and disadvantages of clustering, Mr.  
15 Snyder requested direction on Mr. Sparks' direction to limit language  
16 to prohibiting clustering in Residential and Multiple-Use zoning  
17 districts, adding that the issue would basically play itself out in Design  
18 Review and/or Conditional Use Review.

19  
20 Referring to Item No. 15, Mr. Sparks suggested that staff would  
21 provide at least two options for review by the Planning Commission.

22  
23 Mr. Snyder mentioned that the final issue discussed the previous week  
24 was whether to allow above ground cables between equipment shelters  
25 and cellular towers if housed in a compatible structure, adding that the  
26 proposed language has been provided for review.

27  
28 *Policy Issue No. 7 – Applicability of WCD Designation & Section 60.70*  
29 *to Satellite Earth Stations Use for Television*  
30 *Broadcast: Considerations*

31  
32 Commissioners Maks and Pogue expressed their approval of Policy  
33 Issue No. 7.

34  
35 Commissioner Barnard expressed his opinion that because Satellite  
36 Earth Stations are located on the ground and within fences and do not  
37 involve large, intrusive antennas, Crow's Nests, or davit arms, they are  
38 not actually Wireless Communications Facilities.

39  
40 Observing that the nature of television stations is constantly changing  
41 as opposed to the nature of cellular towers, which involves very little  
42 change, Chairman Voytilla referred to a situation in his own  
43 neighborhood involving a request for approval of a transmitting  
44 satellite in an individual home, adding that this was utilized for

1 personal communications for business investments overseas. He  
2 pointed out that he is not certain that he is willing to consider allowing  
3 such a use without providing for specific language.  
4

5 Mr. Snyder pointed out that the proposed regulations do not  
6 differentiate between the satellite facilities used for  
7 television/broadcasting purposes and those used for grocery stores and  
8 gasoline service stations, adding that this could be addressed through  
9 the final proposal.  
10

11 Noting that he had been thoroughly prepared to disagree with regard  
12 to this issue, Commissioner Winter expressed appreciation to  
13 Chairman Voytilla and Commissioner Barnard for their comments and  
14 clarification addressing his concerns, and expressed concern with  
15 interfering with issues that do not involve wireless communications.  
16

17 Commissioner Bliss stated that he does not quite understand this  
18 connection, expressing his opinion that these separate issues should be  
19 considered individually.  
20

21 Commissioner Maks pointed out that this issue involves semantics,  
22 adding that both types of facilities are addressed within the  
23 Telecommunications Act and should be regulated, either together or  
24 separately.  
25

26 Mr. Sparks noted that page 25 of the proposed text provides that  
27 within the NS zoning district, any satellite earth station with antennas  
28 greater than two meters in diameter and any home satellite antenna  
29 greater than one meter in diameter would require a conditional use.  
30 Referring to page 70 of the proposed text, he pointed out that this text  
31 provides for two thresholds regulating the size of these facilities,  
32 specifically requiring a Type 2 Design Review decision. He emphasized  
33 that staff's major concern is receiving direction with regard to if and  
34 how these facilities would be regulated, and specifically at which level  
35 this regulation would occur.  
36

37 Chairman Voytilla referred to a situation in which the Homeowners'  
38 Association had wanted a facility and stated that the City of Beaverton  
39 was interfering with their legal rights.  
40

41 Mr. Snyder pointed out that Section 207 of the Telecommunications  
42 Act is very specific in terms of the rights of jurisdictions in the  
43 instances of dishes that are one meter or less within residential areas  
44 and two meters or less within commercial and industrial areas, adding

1 that staff's proposed regulations do not impose any regulations upon  
2 these facilities until they exceed these limitations established by the  
3 Telecommunications Act.

4  
5 Commissioner Barnard stated that all he has noticed within Section  
6 60.70 basically references the removal of non-functioning facilities.

7  
8 Chairman Voytilla questioned why earth stations are being discussed  
9 with regard to facilities that transmit, as opposed to those that also  
10 receive, emphasizing that they are both dishes and similar in  
11 appearance. He pointed out that because the issue appears to involve  
12 dishes, it would be more appropriate to make that specific distinction.

13  
14 Commissioner Bliss noted that a satellite dish does meet that  
15 definition, emphasizing that television and wireless are not  
16 synonymous, and expressed his opinion that it is necessary to be on  
17 solid ground in order to create a definition.

18  
19 Expressing his agreement that it is time to move on to the next issue,  
20 Chairman Voytilla requested clarification with regard to  
21 communication devices that utilize microwave.

22  
23 Mr. Snyder advised Chairman Voytilla that communication devices  
24 that utilize microwave fall under the purview of satellite facilities.

25  
26 Chairman Voytilla pointed out that emergency services utilize these  
27 facilities between different agencies.

28  
29 *Policy Issue No. 8 – Section 60.70.25 (Non-Conforming Uses):*  
30 *Considerations*

31  
32 Commissioners Maks, Barnard, Johansen, and Winter and Chairman  
33 Voytilla expressed their support of Policy Issue No. 8.

34  
35 Following Mr. Snyder clarification that the addition of an additional  
36 non-conforming carrier would not necessarily require the entire site to  
37 meet conformance as long as they did not expand the existing site or  
38 lease area, Commissioner Pogue expressed his approval of Policy Issue  
39 No. 8.

40  
41 Commissioner Bliss expressed his opinion that the proposal is still  
42 unclear with regard to the maximum diameter of an antenna.

43

1 Mr. Snyder advised Commissioner Bliss that the intent of the  
2 maximum is 50% or four feet in diameter, whichever is less.

3  
4 Observing that Mr. Snyder had clarified his concern, Commissioner  
5 Bliss expressed his support of Policy Issue No. 8.

6  
7 Mr. Sparks suggested the possibility of revising paragraph D with  
8 regard to collocating in order to address Commissioner Pogue's  
9 concern.

10  
11 *Policy Issue No. 9 – Proposed Conditional Use Thresholds for Satellite*  
12 *Earth Stations & Attachment to Structures in Industrial Zoning*  
13 *Districts: Considerations*

14  
15 Commissioners Maks, Pogue, Barnard, Johansen, and Winter, and  
16 Chairman Voytilla expressed their support of Policy Issue No. 9.

17  
18 Commissioner Bliss expressed his approval of Policy Issue No. 9,  
19 adding that he does have a comment with regard to this issue.  
20 Observing that cable television had not been available in his  
21 neighborhood when he initially moved there, he pointed out that lack  
22 of control had allowed a facility on Cooper Mountain to create a great  
23 deal of interference when this service had finally become available.  
24 Noting that his telephone calls had been ineffective in addressing this  
25 problem, he expressed concern that this could occur again.

26  
27 Mr. Snyder clarified that in terms of signal interference, these signals  
28 are generally regulated through the FCC's permit and licensing  
29 process, emphasizing that local entities have very little control and  
30 authority.

31  
32 *New Policy Issue No. 1 – Amateur Radio Exemption: Considerations*

33  
34 Mr. Snyder explained that Assistant City Attorney Ted Naemura had  
35 provided some alternative options with regard to this issue at the  
36 previous hearing, requesting that Mr. Naemura be allowed to briefly  
37 summarize the Memorandum he had prepared with regard to these  
38 options.

39 Assistant City Attorney Ted Naemura summarized the options  
40 included within his Memorandum and offered to respond to questions.

41  
42 Commissioner Barnard noted that his neighbor has the legal authority  
43 to install a 35-foot antenna on top of his home within the R-5 zoning

1 district in his neighborhood, observing that this is not covered within  
2 the Development Code.

3  
4 Mr. Snyder referred to what he referred to as a 70-foot threshold,  
5 noting that the City of Beaverton is preempted by State law with  
6 regard to authority to regulate a facility that does not exceed this  
7 height, emphasizing that this regulations specifically relates to  
8 amateur and citizen band radios.

9  
10 Mr. Naemura clarified that this regulation addresses only amateur  
11 radios, emphasizing that citizen band materials do not fall into this  
12 category. He pointed out that it is the amateur radio operators that  
13 basically got the word out when Mount St. Helens erupted, noting that  
14 these facilities serve an emergency/civil defense/hobbyist function. He  
15 mentioned that this is not the City's turf, adding that this does not  
16 create a huge issue within Beaverton.

17  
18 Mr. Snyder clarified that staff is proposing language that would begin  
19 regulating those facilities in excess of 70-feet in height, which does not  
20 interfere with State regulations that preempt local regulations, adding  
21 that the height of the structure is measured from the ground level.

22  
23 Commissioners Maks, Pogue, Barnard, Johansen, Winter, and Bliss  
24 and Chairman Voytilla expressed their support of New Policy Issue No.  
25 1.

26  
27 *New Policy Issue No. 2 – Wireless Communications Facilities in Public*  
28 *Road Rights-of-Ways: Considerations*

29  
30 Mr. Snyder explained that this issue involves whether the Planning  
31 Commission believes that the language of the Development Code  
32 should contain minimum design standards for when Wireless  
33 Communication Facilities, particularly antennas, are placed in the  
34 public right-of-way. He referenced the recently adopted City of  
35 Portland's Right-of-Way Franchise Agreement, adding that there is  
36 both benefit and disbenefit to that information. He pointed out that  
37 the benefit is to provide some context for the decision-making body,  
38 adding that the disbenefit involves a technology that is quickly  
39 changing, which might not be adequately anticipated within design  
40 standards.

41  
42 Mr. Sparks augmented Mr. Snyder's comments, recommending that  
43 the City of Beaverton follow the City of Portland's model, adding that

1 this would provide some regulation with regard to what is located  
2 within these rights-of-way.

3  
4 Mr. Snyder clarified that an applicant would be required to complete a  
5 Type 2 Design Review process for a facility within a public right-of-  
6 way.

7  
8 Commissioner Moks stated that he agrees with Bullet No. 1,  
9 emphasizing that this should involve a Type 1 Design Review, adding  
10 that he supports Bullet Nos. 2 and 3.

11  
12 Commissioner Pogue expressed his agreement with Commissioner  
13 Moks' statements with regard to Bullet Nos. 1, 2, and 3, adding that he  
14 is unclear why collocation would not be considered an option.

15  
16 Mr. Snyder advised Commissioner Pogue that this had been included  
17 only because streetlights and traffic lights within the public right-of-  
18 way had not been identified in the proposed text as authorized for this  
19 installation, emphasizing that it might be necessary to add this back  
20 into Chapters 20 and 40.

21  
22 Commissioner Barnard agreed that design requirements are  
23 necessary, adding that because he is not certain whether it is  
24 appropriate to include this within the Development Code or the lease  
25 agreement, it is his opinion that staff should utilize the most effective  
26 option.

27  
28 Chairman Voytilla and Commissioners Johansen and Winter  
29 expressed their agreement with Commissioner Moks with regard to  
30 Bullet Nos. 1, 2, and 3.

31  
32 Observing that he is in favor of the Type 1 Design Review,  
33 Commissioner Bliss expressed concern with negating policies that had  
34 only been created several years ago.

35  
36 Mr. Snyder noted that he understands Commissioner Bliss' concerns,  
37 adding that most lease agreements include termination clauses, which  
38 should address this issue.

39  
40 Mr. Sparks emphasized that it is important to point out that while the  
41 City of Beaverton does own the right-of-way, they do not own the  
42 utility poles, which are actually the property of Portland General  
43 Electric (PGE).  
44

1 Mr. Snyder explained that staff would return with the final package,  
2 including revising the proposed Type 2 process to a Type 1 process, as  
3 well as presenting some general design criteria to be included within  
4 the Development Code.

5  
6 *Policy Issue Raised by Steven W. Topp – Replacement Towers:*  
7 *Considerations*  
8

9 Commissioner Maks expressed his disapproval of Bullet No. 2,  
10 emphasizing that a replacement tower should absolutely not be  
11 allowed to construct to the maximum tower height standard of the  
12 underlying zoning district.

13  
14 At the request of Commissioner Barnard, Mr. Snyder clarified the  
15 language as proposed within Bullet No. 1, and referred to page 19 of  
16 96, which addresses installation of one replacement of a Wireless  
17 Communication Facility tower on a parent parcel containing an  
18 existing tower with one carrier for the purposes of providing collocation  
19 opportunities for a maximum of two carriers. He explained that in  
20 essence, this prevents what he referred to as a de facto new tower  
21 constructed under the guise of replacing a tower for collocation, adding  
22 that this is why staff recommended a maximum of two carriers in order  
23 to impose some limitations. Observing that Mr. Topp has presented an  
24 alternative, indicating that there should be no maximum restriction,  
25 adding that staff is concerned with the potential of creating a structure  
26 different from the original intent of an application that had been  
27 approved.

28  
29 Commissioner Maks expressed his support of Bullet No. 1.

30  
31 Commissioner Pogue expressed his agreement with Commissioner  
32 Maks with regard to Bullet Nos. 1 and 2.

33  
34 Observing that he is still confused, Commissioner Barnard expressed  
35 his opinion that it should be clearly stated if the intent is to require the  
36 original design Conditions of Approval.

37  
38 Chairman Voytilla and Commissioners Johansen, Winter, Bliss, Maks,  
39 and Pogue expressed their agreement with Commissioner Barnard's  
40 statement concerning intent with regard to the original design  
41 Conditions of Approval.  
42



1 On question, Commissioners Barnard, Johansen, Winter, Bliss, and  
2 Pogue and Chairman Voytilla expressed their agreement with  
3 Commissioner Maks disapproval of Bullet No. 2.

4  
5 Mr. Snyder suggested that this issue be continued to December 18,  
6 2002.

7  
8 At the request of Commissioner Barnard, Mr. Sparks pointed out that  
9 the agenda for December 11, 2002 includes the proposal for Sunrise at  
10 Cooper Mountain, which would be very lengthy.

11  
12 Mr. Snyder advised the Planning Commission that staff would provide  
13 the packet a minimum of seven days prior to the hearing date of  
14 December 18, 2002.

15  
16 Commissioner Pogue requested that staff take the time to consider  
17 diameter restraints for review within this proposal.

18  
19 Mr. Snyder explained that this issue should be addressed with regard  
20 to the policies involving compatibility and design review, emphasizing  
21 that additional direction could be provided.

22  
23 Commissioner Barnard expressed his opinion that any facility located  
24 in the air does not qualify as stealth design.

25  
26 Commissioner Maks **MOVED** and Commissioner Pogue **SECONDED**  
27 a motion to continue TA 2002-0001 – Chapter 60 (Special  
28 Requirements), Chapter 20 (Land Uses), Chapter 40 (Permits and  
29 Applications), and Chapter 90 (Definitions) to a date certain of  
30 December 18, 2002.

31  
32 Motion **CARRIED**, unanimously.

33  
34 9:28 p.m. to 9:36 p.m. break  
35

36 Mr. Sparks discussed the Planning Commission's denial of three  
37 applications with regard to Salem Communications, adding that the  
38 decisions had been legally flawed with respect to the fact that Federal  
39 regulations governing radio broadcast facilities prevents local  
40 jurisdictions from denying or taking action on a project based upon  
41 radio frequency interference. Observing that Mr. Naemura could  
42 provide greater detail with regard to this issue, he stated that staff has  
43 prepared the Land Use Orders, adding that he would like to take this  
44 opportunity to walk through these orders in order to clarify what has

1        been done, how and why it has been done, and what is likely to occur  
2        after this has been completed.

3  
4        Mr. Naemura discussed Order No. 1541, which addresses the  
5        Conditional Use Permit, and explained more clearly how the  
6        Development Code language for private utilities leads to the conclusion  
7        that the proposal involves a private utility and subject to conditional  
8        use approval. Concluding, he emphasized that there had been a great  
9        deal of discussion with regard to these issues, adding that staff is  
10       comfortable with the final orders that had been prepared.

11  
12       Mr. Sparks emphasized that these orders must be signed this evening  
13       and mailed the following day in order to comply with the 120-day  
14       deadline.

15  
16       Mr. Naemura clarified that basically the theme is that the application  
17       did not demonstrate compatibility to the satisfaction of the Planning  
18       Commission, adding that the height and lack of appropriate screening  
19       had been issues of concern. Observing that this is based upon the  
20       language of the criteria, he pointed out that he believes that this is a  
21       valid basis on which to make a decision.

22  
23       Mr. Sparks explained that the end result involves orders that deny the  
24       proposal while reflecting the decision of the Planning Commission with  
25       regard to the use for the subject site.

26  
27       Commissioner Maks noted that this would be included in the record,  
28       adding that while the oral motion had included the issue of  
29       incompatibility, he had also cited two Comprehensive Plan Policies  
30       that he felt that the applicant had failed to meet. He explained that  
31       one of these policies provided that incompatible uses would be  
32       prevented from locating within residential neighborhoods, adding that  
33       a discussion between staff and the Commissioners had indicated that  
34       the height of the proposed tower was twice the height of any cellular  
35       tower that had been approved in the past. He emphasized that this  
36       height had been a significant concern expressed by the neighbors who  
37       testified with regard to this issue, adding that because this 199-foot  
38       cellular tower was incompatible with the existing residential  
39       neighborhood, the application does not meet that Comprehensive Plan  
40       Policy.

41  
42       Observing that he had not reviewed the tape of the meeting, Mr.  
43       Naemura pointed out that while this had not been his perception, he  
44       understands Commissioner Maks' logic with regard to this issue.

1 Mr. Sparks referred to the comments of Commissioner Maks, adding  
2 that he would prefer to caucus with Mr. Naemura to determine  
3 whether it is necessary to augment staff's findings. Observing that  
4 this may be a moot point when considering the next steps with regard  
5 to this issue, he pointed out that staff would like to get these orders in  
6 the mail in order to finalize the Planning Commission's written  
7 decision. He explained that this would initiate the clock for the 10-day  
8 appeal period, adding that it would also create an agenda item for the  
9 City Council's consent calendar, in the event that an appeal is not filed  
10 within the 10-day appeal period. He noted that based upon this  
11 inherent Federal preemption, staff would offer to have this issue  
12 remanded by the City Council back to the Planning Commission in  
13 order to provide for a new hearing on this set of applications, at which  
14 time staff would present the fact that this Federal preemption exists.

15  
16 Mr. Sparks expressed concern that the public has gotten the  
17 impression that the interference issue is basically the reason that  
18 these applications had been denied, adding that in order to make  
19 everyone concerned aware of this Federal preemption, it is necessary to  
20 make certain that everyone has the opportunity to provide testimony  
21 with regard to this proposal. He pointed out that it would be necessary  
22 for the applicant to sign a waiver of the 120-day requirement, adding  
23 that while the applicant does have the option of a Public Hearing in  
24 front of the City Council, staff would prefer to address this at the  
25 Planning Commission level, possibly sometime in January or February  
26 of 2003.

27  
28 Mr. Naemura explained that the applicant's legal representative has  
29 indicated that they are in support of staff's proposal to remand the  
30 proposal back to the Planning Commission for review.

31  
32 Commissioner Johansen questioned whether the Planning Commission  
33 would review all three applications related to this proposal.

34  
35 Mr. Sparks advised Commissioner Johansen that the entire package  
36 would be reviewed a second time, adding that the idea is based upon  
37 the consensus of the Planning Commission that indicated that issues  
38 related to screening and Tree Preservation Plan could potentially  
39 make a difference with the decisions.

40  
41 Commissioner Maks stated that with regard to that particular motion,  
42 the motion maker had made that statement, emphasizing that the  
43 Commission had agreed with staff's recommendation for denial

1 because the applicant had neither presented this necessary evidence  
2 nor taken advantage of the opportunity to request a continuance.

3  
4 Mr. Sparks explained that staff would prefer that all three applications  
5 be remanded back to the Planning Commission, rather than dealing  
6 with what he referred to as a disjointed hearing before the City  
7 Council. He emphasized that keeping all three applications together  
8 as one proposal would provide for a more logical review and hearing  
9 process.

10  
11 Mr. Naemura expressed his opinion that what occurred that night was  
12 not customary applicant behavior.

13  
14 Observing that staff had been working with this applicant with regard  
15 to this proposal for nearly a year, Mr. Sparks emphasized that staff  
16 had advised the applicant on numerous occasions to identify what they  
17 would need to provide in order to justify their applications.

18  
19 Mr. Sparks and Mr. Naemura consulted briefly.

20  
21 In response to Commissioner Johansen's question, Mr. Naemura  
22 stated that the City Council could still receive these items on appeal,  
23 adding that by remanding the applications back to the Planning  
24 Commission, the City Council would be provided with a better record  
25 and set of land use orders, which would result in a better Public  
26 Hearing.

27 Mr. Sparks stated that it is important to emphasize that staff has  
28 made no promises to the applicant with regard to a potentially  
29 different decision, adding that staff's only promise had been that the  
30 City Council would remand the proposal and applications back to the  
31 Planning Commission for a de novo hearing, which would basically  
32 involving starting over.

33  
34 **APPROVAL OF MINUTES:**

35  
36 Minutes of the meeting of October 9, 2002, submitted. Commissioner  
37 Maks requested that line 31 of page 6 be amended, as follows:  
38 "~~actually~~ **not** transitional, ~~from high impact to lower impact.~~"  
39 Commissioner Maks requested that line 40 of page 7 be amended, as  
40 follows: "Observing that he shares Commissioner Maks' concerns with  
41 regard to..." Chairman requested that line 40 of page 16 be amended,  
42 as follows: "...observing that he has counted **the number of office**  
43 **spaces on the plan indicates a total of** 81 employees ~~so far.~~"  
44 Chairman Voytilla requested that line 26 of page 21 be amended, as

1 follows: “...~~as modified~~ **including the modifications proposed by**  
2 **Commissioner Barnard.**” Chairman Voytilla requested that Line 17  
3 of page 29 be amended, as follows: “...professional testimony, **and**  
4 **expressed concern that he had not received adequate**  
5 **notification**”, and that the following statement be inserted following  
6 that paragraph: “**Commissioner Pogue located Mr. Okabayashi’s**  
7 **name and address on the mailing list.**” Chairman Voytilla  
8 requested that line 41 of page 31 be amended, as follows: “change,  
9 **adding that he supports the application.** Commissioner Barnard  
10 requested that lines 36 and 37 of page 32 be amended, as follows:  
11 “...adding that he ~~had not intended to lock them down~~ **supports use**  
12 **of the facilities with some restrictions with regard to opening**  
13 **and closing the bay doors between the hours of 6:00 a.m. and**  
14 **7:00 a.m.** Commissioner Pogue requested that line 5 of page 4 be  
15 amended, as follows: “...had not taken time to attend ~~this meeting~~ **the**  
16 **Neighborhood Meeting.**” Commissioner Maks **MOVED** and  
17 Commissioner Barnard **SECONDED** a motion that the minutes be  
18 approved, as amended.  
19

20 Motion **CARRIED**, unanimously, with the exception of Commissioners  
21 Bliss and Johansen, who abstained from voting on this issue.  
22

23 Minutes of the meeting of October 23, 2002, submitted. Commissioner  
24 Maks **MOVED** and Commissioner Barnard **SECONDED** a motion  
25 that the minutes be approved as written.  
26

27 Motion **CARRIED**, unanimously, with the exception of Chairman  
28 Voytilla, who abstained from voting on this issue.  
29

### 30 **MISCELLANEOUS BUSINESS:**

31  
32 Following a brief discussion, it was determined that the annual holiday  
33 luncheon for staff would be held at 12:00 Noon on Wednesday,  
34 December 18, 2002, in the Second Floor Conference Room.  
35 Commissioner Barnard agreed to provide appropriate food and  
36 refreshments for this event.  
37

38 The meeting adjourned at 10:23 p.m.